

BEFORE THE BOARD OF ENVIRONMENTAL REVIEW
OF THE STATE OF MONTANA

In the matter of the) NOTICE OF PUBLIC HEARING
amendment of ARM 17.8.102,) ON PROPOSED AMENDMENT
17.8.103, 17.8.202, 17.8.302,) (AIR QUALITY)
17.8.602, 17.8.767, 17.8.802,))
17.8.902, 17.8.1002,))
17.8.1102, 17.8.1202,))
17.8.1302, 17.8.1305,))
17.8.1310, 17.8.1402, and))
17.8.1502, pertaining to))
incorporation by reference of))
current federal regulations))
and other materials into air))
quality rules))

TO: All Concerned Persons

1. On _____, 2005, at _____.m., the Board of Environmental Review will hold a public hearing [in/at address], Montana, to consider the proposed amendment of the above-stated rules.

2. The Board will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board no later than 5:00 p.m., _____, 2005, to advise us of the nature of the accommodation that you need. Please contact the Board Secretary at P.O. Box 200901, Helena, Montana 59620-0901; phone (406) 444-2544; fax (406) 444-4386; or email ber@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

17.8.102 INCORPORATION BY REFERENCE--PUBLICATION DATES

(1) Unless expressly provided otherwise, in this chapter where the board has:

(a) adopted a federal regulation by reference, the reference is to the July 1, ~~2003~~ 2004, edition of the Code of Federal Regulations (CFR);

(b) adopted a section of the United States Code (USC) by reference, the reference ~~refers~~ is to the ~~1994~~ 2000 edition of the USC ~~and Supplement I (2002)~~;

MAR Notice No. 17-____

(c) remains the same.

(d) adopted another rule of the department or of another agency of the state of Montana by reference, the reference is to the December 31, ~~2003~~ 2004, edition of the Administrative Rules of Montana (ARM).

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

17.8.103 INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED DOCUMENTS (1) through (2) remain the same.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703) 487-4650~~ (800) 553-6847 or (703) 605-6000; fax: (703) ~~321-8547~~ 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: http://www.ntis.gov;

(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

(c) ~~and the~~ U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC ~~20402-9328~~ P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and

(d) ~~at the libraries of each of the 10 EPA Regional Offices regional offices.~~

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402~~ as described in (3)(c).

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

17.8.202 INCORPORATION BY REFERENCE (1) through (1)(f) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703)~~

~~487-4650, (800) 553-6847 or (703) 605-6000; fax: (703) 321-8547, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: <http://www.ntis.gov>;~~

(b) ~~the National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

(c) ~~and the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328 P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

(d) ~~at the libraries of each of the 10 EPA Regional Offices regional offices.~~

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402~~ as described in (3)(c).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-203, MCA

17.8.302 INCORPORATION BY REFERENCE (1) through (1)(f) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161,; phone: (703) 487-4650, (800) 553-6847 or (703) 605-6000; fax: (703) 321-8547, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: <http://www.ntis.gov>;~~

(b) ~~the National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;~~

(c) ~~and the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and~~

(d) ~~at the libraries of each of the 10 EPA regional offices.~~

(4) Copies of the CFR may be obtained from the MAR Notice No. 17-____

~~Superintendent of Documents, U.S. Government Printing Office,
as described in (3)(c) Washington, DC 20402.~~

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-203, MCA

17.8.602 INCORPORATION BY REFERENCE (1) remains the same.

(2) A copy of ARM Title 17, chapter 53, subchapter 5, is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703) 487-4650~~, (800) 553-6847 or (703) 605-6000; fax: (703) ~~321-8547~~, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: http://www.ntis.gov;

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(c) ~~and the~~ U.S. Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328~~, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and

(d) ~~at~~ the libraries of each of the 10 EPA regional offices.

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402~~ as described in (3)(c).

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-203, MCA

17.8.767 INCORPORATION BY REFERENCE (1) through (1)(c) remain the same.

~~(d) 40 CFR 52.21, specifying requirements for prevention of significant deterioration of air quality;~~

(1)(e) through (h) remain the same but are renumbered (d) through (g).

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the ~~Air Resources Management Bureau~~, Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901,

MAR Notice No. 17-____

Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703) 487-4650~~, (800) 553-6847 or (703) 605-6000; fax: (703) ~~321-8547~~, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~ email: orders@ntis.gov; web: http://www.ntis.gov;

(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 589-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

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(d) ~~at~~ the libraries of each of the 10 EPA regional offices.

(4) Copies of the CFR may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328 as described in (3)(c).

AUTH: 75-2-111, 75-2-204, MCA

IMP: 75-2-211, 75-2-215, MCA

17.8.802 INCORPORATION BY REFERENCE (1) through (1)(g) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained ~~at~~ from:

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(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, ~~and or~~ (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

(c) ~~the~~ U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800;

MAR Notice No. 17-____

fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) at the libraries of each of the 10 EPA Regional Offices regional offices.

(4) Copies of the CFR may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 as described in (3)(c).

(5) The Standard Industrial Classification Manual (1987) (order no. PB 87-100012) and the guidelines on air quality models (revised) (1986 1993) (EPA publication no. 450/278-027R order number PB93-213213) and supplement A (1987) C (1995) (order number PB95-246401) may be obtained from the US Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 National Technical Information Service, as described in (3)(a).

AUTH: 75-2-111, 75-2-203, MCA

IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.902 INCORPORATION BY REFERENCE (1) through (1)(f) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (703) 487-4650, (800) 553-6847 or (703) 605-6000; fax: (703) 321-8547, 605-6900; Internet: orders@ntis.fedworld.gov, email: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) the National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, and or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: <http://www.epa.gov/ncepimahom>;

(c) the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) at the libraries of each of the 10 EPA Regional Offices regional offices.

(4) Copies of the CFR may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 as described in (3)(c).

(5) The Standard Industrial Classification Manual (1987)

may be obtained from the ~~US Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (order no. PB 87-1000-12)~~ National Technical Information Service, as described in (3)(a).

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1002 INCORPORATION BY REFERENCE (1) through (1)(f) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained ~~at~~ from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (703) 487-4650, (800) 553-6847 or (703) 605-6000; fax: (703) 321-8547, 605-6900; Internet: orders@ntis.fedworld.gov, email: orders@ntis.gov; web: http://www.ntis.gov;

(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, and or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

(c) ~~the~~ U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and

(d) ~~at~~ the libraries of each of the 10 EPA Regional Offices regional offices.

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402~~ as described in (3)(c).

(5) The Standard Industrial Classification Manual (1987) may be obtained from the ~~US Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (order no. PB 87-1000-12)~~ as described in (3)(a).

AUTH: 75-2-111, 75-2-203, MCA
IMP: 75-2-202, 75-2-203, 75-2-204, MCA

17.8.1102 INCORPORATION BY REFERENCE (1) through (1)(b) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying

at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703) 487-4650~~, (800) 553-6847 or (703) 605-6000; fax: (703) ~~321-8547~~, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: http://www.ntis.gov;

(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, ~~and or~~ (513) 489-8190; fax (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

(c) ~~the~~ U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and

(d) ~~at~~ the libraries of each of the 10 EPA Regional Offices regional offices.

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402~~ as described in (3)(c).

AUTH: 75-2-111, MCA

IMP: Title 75, chapter 2, MCA

17.8.1202 INCORPORATION BY REFERENCE (1) For the purposes of this subchapter, the board ~~hereby~~ adopts and incorporates by reference the following:

(a) through (g) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

(3) Copies of federal materials also may be obtained from:

(a) ~~the~~ National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: ~~(703) 487-4650~~, (800) 553-6847 or (703) 605-6000; fax: (703) ~~321-8547~~, 605-6900; Internet: ~~orders@ntis.fedworld.gov~~, email: orders@ntis.gov; web: http://www.ntis.gov;

(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, ~~and or~~ (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

MAR Notice No. 17-__

(c) ~~the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and~~

(d) ~~at the libraries of each of the 10 EPA Regional Offices regional offices.~~

(4) ~~Copies of the CFR may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402 as described in (3)(c).~~

(5) ~~The Standard Industrial Classification Manual (1987) (Order No. PB 87-100012) may be obtained from the US Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 as described in (3)(a).~~

AUTH: 75-2-217, MCA

IMP: 75-2-217, 75-2-218, MCA

17.8.1302 INCORPORATIONS BY REFERENCE (1) For the purposes of this subchapter, the board ~~hereby~~ adopts and incorporates ~~herein~~ by reference the following:

(a) 40 CFR Part 93, subpart A, which sets forth the conformity to state or federal implementation plans of transportation plans, programs and projects developed, funded or approved under Title 23 USC or the Federal Transit Act ~~with the following changes:-~~

~~(i) 40 CFR 93.102(c), as it applies to federally funded projects, is not incorporated;~~

~~(ii) 40 CFR 93.102(d) is not incorporated;~~

~~(iii) 40 CFR 93.105 is not incorporated. ARM 17.8.1305 and 17.8.1306 replace 40 CFR 93.105(b) and (c)(7). ARM 17.8.1310 replaces 40 CFR 93.105(c)(1) through (3), and (6). ARM 17.8.1311 replaces 40 CFR 93.105(c)(4) and (5). ARM 17.8.1312 replaces 40 CFR 93.105(d). ARM 17.8.1313 replaces 40 CFR 93.105(e). All references in the incorporated regulations are adjusted accordingly.~~

~~(iv) the second sentence of 40 CFR 93.112 is not incorporated.~~

~~(v) 40 CFR 93.118(e)(1), beginning "or beginning 45 days" and ending "transportation conformity purposes" is not incorporated.~~

~~(vi) 40 CFR 93.119(c)(2), after "calendar year 1990," is not incorporated.~~

~~(vii) 40 CFR 93.120(a)(2) third sentence beginning "during the first 120 days" is not incorporated;~~

~~(viii) 40 CFR 93.121(a) beginning "the requirements of one of the following are met" and 40 CFR 93.121(a)(1) in its~~

~~entirety, are not incorporated:~~

~~(ix) 40 CFR 93.122(a)(4)(ii) is rewritten "The written commitments to control measures that are not included in the transportation plan and transportation improvement program must be obtained prior to a conformity determination and such commitments must be fulfilled."~~

~~(x) 40 CFR 93.124(b), second sentence beginning "such an implementation plan revision" is not incorporated;~~

~~(xi) 40 CFR 93.125(c) is rewritten "Written commitments to mitigation measures must be obtained prior to a positive conformity determination and project sponsors must comply with such commitments."~~

(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:

(a) the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (703) 487-4650, (800) 553-6847 or (703) 605-6000; fax: (703) 321-8547, 605-6900; Internet: orders@ntis.fedworld.gov, email: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) the National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, and or (513) 489-8190; fax: (513) 489-8695; email: ncepi@mail.one.net; web: <http://www.epa.gov/ncepihome>;

(c) the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) at the libraries of each of the 10 EPA regional offices.

(3) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

17.8.1305 CONSULTATION REQUIREMENTS: APPLICABILITY

(1) and (2) and Tables A through D remain the same.

Table E is revised as follows:

TABLE E

ACTION: Determination that a transportation plan or TIP revision or amendment merely adds or deletes exempt projects listed in 40 CFR 93.134126.

RESPONSIBLE ENTITY: MPO or MDT.

The rest of Table E remains the same.

AUTH: 75-2-111, MCA
IMP: 75-2-202, MCA

17.8.1310 SPECIAL ISSUES (1) In conducting consultations pursuant to ARM 17.8.1306, responsible entities shall ensure that the following special issues are addressed, when applicable:

(a) and (b) remain the same.

(c) evaluating whether projects otherwise exempted from meeting the requirements of 40 CFR Part 93, subpart A (see 40 CFR 93.~~134~~126 and 93.~~135~~127) should be treated as non-exempt in cases where potential adverse emissions impacts may exist for any reason (see Table E);

(d) remains the same.

(e) identifying, as required by 40 CFR 93.~~131(d)~~ 123(b), projects located at sites in PM₁₀ nonattainment areas ~~which that~~ have vehicle and roadway emission and dispersion characteristics ~~which that~~ are essentially identical to those at sites for which have violations have been verified by monitoring, and therefore require quantitative PM₁₀ hot-spot analysis (see Table D, action step number 1);

(f) choosing conformity tests and methodologies for isolated rural nonattainment and maintenance areas as required by 40 CFR 93.109-~~(g)~~(1)(2)(iii) (see Table D, action step number 1);

(g) through (j) remain the same.

AUTH: 75-2-111, MCA
IMP: 75-2-202, MCA

17.8.1402 INCORPORATIONS BY REFERENCE (1) through (1)(a)(iv) remain the same.

(2) Copies of federal materials incorporated by reference in this subchapter may be obtained from:

(a) National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161; phone: (800) 553-6847 or (703) 605-6000; fax: (703) 605-6900; email: orders@ntis.gov; web: <http://www.ntis.gov>;

(b) National Service Center for Environmental Publications (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198 or (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: <http://www.epa.gov/ncepihom>;

(c) U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954, phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: <http://www.gpoaccess.gov>; and

(d) the libraries of each of the 10 EPA regional

offices.

(3) Copies of the CFR may be obtained from the U.S. Government Printing Office, as described in (2)(c).

AUTH: 75-2-111, MCA

IMP: 75-2-202, MCA

17.8.1502 INCORPORATION BY REFERENCE (1) through (1)(f) remain the same.

(2) A copy of materials incorporated by reference in this subchapter is available for public inspection and copying at the Department of Environmental Quality, 1520 E. 6th Ave., P.O. Box 200901, Helena, MT 59620-0901.

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(b) ~~the~~ National Service Center for Environmental Publications and Information (NSCEP), P.O. Box 42419, Cincinnati, OH 45242-0419; phone: (800) 490-9198, ~~and or~~ (513) 489-8190; fax: (513) 489-8695; email: ncepimal@one.net; web: http://www.epa.gov/ncepihom;

(c) ~~the~~ U.S. Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402-9328~~, P.O. Box 371954, Pittsburgh, PA 15250-7954; phone: (866) 512-1800; fax: (202) 512-2104; email: orders@gpo.gov; web: http://www.gpoaccess.gov; and

(d) ~~at~~ the libraries of each of the 10 EPA ~~Regional Offices~~ regional offices.

(4) Copies of the CFR may be obtained from the ~~Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402~~ as described in (3)(c).

AUTH: 75-2-217, 75-2-218, MCA

IMP: 75-2-217, 75-2-218, MCA

REASON: The Board is proposing to amend the air quality rules to adopt the current editions of federal regulations, state statutes, and state rules that are incorporated by reference. This is necessary to maintain primacy from the U.S. Environmental Protection Agency (EPA) over air quality regulation in the state.

The Board is proposing to amend ARM 17.8.102 to adopt revisions to federal regulations published in the Federal Register between July 1, 2003, and June 30, 2004, that are

MAR Notice No. 17-____

included in the July 1, 2004, edition of the Code of Federal Regulations (CFR). Revisions include minor amendments to various monitoring and recordkeeping requirements, technical amendments to the national emission standards for hazardous air pollutants (NESHAPs) for kraft pulp mills, amendments to emission standards for bulk gasoline terminals and gasoline distribution facilities, and promulgation of NESHAPs for stationary reciprocating internal combustion engines and lime manufacturing plants. The proposed amendments also would adopt changes to federal air quality statutes.

The Board is proposing to amend ARM 17.8.103, 17.8.202, 17.8.302, 17.8.602, 17.8.767, 17.8.802, 17.8.902, 17.8.1002, 17.8.1102, 17.8.1202, 17.8.1302, and 17.8.1502 to update the addresses for obtaining copies of documents referenced in the rules, and to amend 17.8.1402 to add these addresses.

The Board is proposing to amend ARM 17.8.767 by deleting the incorporation by reference of 40 CFR 52.21, the federal prevention of significant deterioration of air quality (PSD) program. This incorporation by reference is unnecessary because ARM Title 17, chapter 8, subchapter 8, contains the state's PSD program.

The Board is proposing to amend the subchapter 13 rules to maintain consistency between federal regulations and the state rules. Pursuant to 42 USC 7401-7671q, Montana is required to adopt regulations into the state implementation plan (SIP) that ensure that all federally-funded highway transportation projects conform to SIP provisions that attain and maintain the national ambient air quality standards (NAAQS) (conformity rules). In July 2004, EPA published revisions to the federal conformity regulations in 40 CFR Part 93, Subpart A, in response to a 1999 federal court ruling that directed EPA to make changes incorporating the new ozone and PM-2.5 standards. The Board's proposed amendments include adoption and incorporation by reference of EPA's final regulations. The proposed amendments also include revisions to several internal references to the federal regulations necessitated by renumbering of many of the federal regulations.

In 1999, following the federal court ruling and pending EPA's promulgation of revised conformity regulations, the Board adopted ARM 17.8.1302(1)(a)(i) through (xi) to provide a temporary solution that harmonized the incorporation by reference of existing federal regulations with the federal court ruling. The Board now is proposing to delete these provisions because they will no longer be necessary if the Board adopts the revised federal regulations.

The Board also is proposing other amendments to ARM 17.8.102, 17.8.1302, and 17.8.1310 to eliminate redundant

words and to update grammar and punctuation. These editorial amendments are not intended to change the meaning of the rules.

The Board also will take testimony on submission of the proposed amendments to EPA as proposed revisions to the SIP.

4. Concerned persons may submit their data, views or arguments, either orally or in writing, at the hearing. Written data, views or arguments may also be submitted to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Avenue, P.O. Box 200901, Helena, Montana, 59620-0901; faxed to (406) 444-4386; or emailed to ber@mt.gov, no later than 5:00 p.m., _____, 2005. To be guaranteed consideration, mailed comments must be postmarked on or before that date.

5. _____, _____, or another attorney for the Agency Legal Services Bureau, has been designated to preside over and conduct the hearing.

6. The Board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding: air quality; hazardous waste/waste oil; asbestos control; water/wastewater treatment plant operator certification; solid waste; junk vehicles; infectious waste; public water supplies; public sewage systems regulation; hard rock (metal) mine reclamation; major facility siting; opencut mine reclamation; strip mine reclamation; subdivisions; renewable energy grants/loans; wastewater treatment or safe drinking water revolving grants and loans; water quality; CECRA; underground/above ground storage tanks; MEPA; or general procedural rules other than MEPA. Such written request may be mailed or delivered to the Board Secretary at Board of Environmental Review, 1520 E. Sixth Ave., P.O. Box 200901, Helena, Montana 59620-0901; faxed to (406) 444-4386; emailed to ber@mt.gov; or may be made by completing a request form at any rules hearing held by the Board.

7. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

Reviewed by:

BOARD OF ENVIRONMENTAL REVIEW

_____	BY:	_____
DAVID M. RUSOFF		JOSEPH W. RUSSELL, M.P.H.,
Rule Reviewer		Chairman

Certified to the Secretary of State _____, 2005.